

**REMARKS/ARGUMENTS**

Claims 1-11 have been withdrawn, claims 12-22 have been rejected, claims 12, 14, 19, and 21 have been amended, and claims 12-22 remain in the case.

Claims 12 and 14 have been amended to overcome form objections as suggested by the Examiner.

Claims 12-22 have been rejected as obvious by the Examiner citing Beard et al '800 under 35 USC 103(a). Beard discloses a LAN and WAN communication system for route delivery applications or the like utilizing a "notifier" unit including a first radio frequency transceiver, and a "prompter" unit in a product delivery vehicle including a second radio-frequency transceiver "for communicating data over the local area radio-frequency network wherein said prompter unit communicates with said notifier unit to obtain the received product data when the product delivery vehicle being within communicating range of the local area radio frequency network." (Claim 1).

The Mirriam-Webster Dictionary (10th edition) (copy attached) defines "transceiver" as "a radio transmitter-receiver that uses many of the same components for both transmission and reception".

As the "notifier" unit at the vending machine and the "prompter" unit of Beard are both transceivers, each said units are required to bi-directionally communicate with the other. In the claims and specification of Beard et al, as indicated in the quote from Claim 1 above, the "prompter" unit at the delivery vehicle is required to initiate the communication to the "notifier" so that the data can then be transmitted from the "notifier" to the "prompter".

Unlike Beard, the method taught and claimed in the method of the present invention does not

rely upon bi-directional communications via transceivers, which are more expensive in cost, installation, and upkeep, as well as being more difficult to operate and maintain. Rather the present system utilizes a more robust yet inexpensive method wherein there is provided a transmitter (not transceiver) at the vending area, and an inexpensive receiver at the service vehicle, and wherein there is included the unique methodology of:

- a). obtaining data from the vending machine to provide the desired data stream;
- b) transmitting the data stream from the transmitter at pre-designated intervals; and
- c) repeating steps a-b.

Thus, in the present system, the transmitter of the present application repeatedly transmits a periodically updated data stream, which need only be received by the delivery vehicle via an inexpensive receiver.

The operator receives the repeated data stream, utilizes the data to pull the inventory from the service vehicle, transports same to the vending machine, servicing same, and manually resets the machine after it is stocked. This is not contemplated or suggested by Beard et al.

For example, Claim 22 of the present application sets forth the method steps of:

- a) receiving DEX/USC data from a vending machine, providing received data;
- b) compiling said data to discern activity on inventory, cash, and/or operational status, providing filtered received data;
- c) preparing a transmission conveying said filtered received data, providing a transmission string;
- d) transmitting said transmission string to a reception area in the vicinity of said vending machine;
- e) repeating steps a-d, while

- f) positioning a service vehicle within said reception area;
- g) receiving said transmission;
- h) utilizing data from said transmission to pull inventory and money change from said service vehicle for servicing said vending machine, providing pulled inventory;
- i) conveying said pulled inventory to said vending machine;
- j) stocking said vending machine
- k) resetting said vending machine, resetting said filtered received data.

Only the required information is transmitted, as the un-necessary data is filtered out in step "b". The data stream, updated periodically, is repeatedly transmitted so it is only a matter of the service vehicle utilizing the receiver to obtain the data stream to allow the driver to pull the inventory and change to replenish the machine.

Further, the above claimed method receives the DEX/USC data directly from the vending machine, and does not rely upon transducers as taught in Beard et al, thereby providing a less expensive, less complicated system.

Also, the claims (for example, claim 20) specifies that the data stream can indicate the location and optimal order to service the machines, so that even a driver who has not ever serviced the area can do so in the most efficient manner.

Without the need for costly transceiver's and related equipment for bi-directional communication, it is estimated that the costs for implementing the system of the present invention is well less than half that of the cost of the system of Beard et al.

Further, even though the system of the present application is less expensive to operate than

Beard et al, the present system is believed to provide a more robust, simpler, and more effective method of transmitting the data from the vending machine area to the service vehicle.

Amongst other reasons, the only transmitter of the present system is stationary and is installed at that stationary location to transmit optimally to the reception area, to provide a reliable, pre-determined transmission point for reception by the service vehicle within a more generalized, pre-determined reception area.

This is in comparison to the system of Beard et al, wherein the mobile service vehicle is required to initiate a bi-direction communication via its own transceiver (the "prompter"), which must be received and communicated to the transceiver at the vending area (the "notifier"), whereby further bi-directional communication takes place. As the service vehicle is by nature mobile, it is anticipated that the "prompter" transceiver will be required to transmit from a variety of locations, often in urban areas, and likely in areas which were not pre-tested and determined to be suitable for communication with the "notifier".

In general, it is more difficult to successfully transmit a signal to a fixed location from an undetermined area (as would be the case in a mobile transmission), than it is to receive a signal from a mobile vehicle, especially in urban areas, due to blind spots, interference, structures, and other impediments to transmission. Also, a mobile transmitter would be at about ground level, further impeding successful transmission, especially in urban environments.

Thus, it is submitted that it is more difficult to transmit from the mobile service vehicle to the "notifier" than visa-versa as mobile antenna have transmission limitations compared to fixed land antenna, which can be above ground level.

Accordingly, the transceiver "prompter" of Beard et al will either have to be of greater

transmitter strength than is normally required at an optimal transmission (to accommodate various locations where interference is or obstacles to transmission are present, as well as limitations in the mobile antenna), or it will likely be required to be situated only at certain locations for bi-directional communications.

In contrast, the transmitter of the present invention, because it is at the vending location, is stationary, and can thereby be optimized to provide robust transmission even with lower power (via placement, which can easily be above ground or situated above or around impediments, or antenna selection) and does not have to receive communications from the service vehicle, and because the transmitter of the present invention transmits in repetition a periodically updated data stream, no bi-directional communication is required.

It is respectfully submitted that the examining authority, as has held by the CAFC for the Board of Appeals:<sup>1</sup>

"has the burden under section 103 to establish a prima facie case of obviousness [citing In re Piasecki, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984)]. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references."<sup>2</sup>

This, it is respectfully suggested, has not been done. As discussed above, the invention of Beard et al does not contemplate, suggest, or otherwise enunciate, either alone or in combination,

<sup>1</sup>In re Fine, 837 F.2d 1071, 5 USPQ2d 1596, 1598-99 (Fed. Cir. 1988).

<sup>2</sup>Citing In re Lalu, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1984), and suggesting to see also Ashland Oil, Inc. v. Delta Resins and Refractories, Inc., 776 F.2d 281, 297 n.24, 227 USPQ 657, 667 n.24 (Fed. Cir. 1985); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

the claimed methods of the present invention.

The prior art is replete with expensive and complicated systems for communicating vending machine inventory and/or operational status to a remote location, but none teaches, suggests, or otherwise contemplates, alone or in combination, the claimed method of the present application.

Accordingly, it is submitted that neither Beard, nor Butler, McGarry et al, Howell, or the other art cited by the Examiner or applicant comes close to the ease, simplicity, reliability, or cost-effectiveness of the system and claimed methods of the present application, for reasons above stated.

As the CAFC has further said<sup>3</sup> in the Fine decision:

"To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.' It is essential that 'the decision maker forget what he or she has been taught at trial about the claimed invention and cast the mind back to the time the invention was made...to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art.' (Id.) One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

The Court of Appeals for the Federal Circuit has summarized some of the basic tenets to be applied under 35 USC 103 in what one reporter<sup>4</sup> has termed the "Section 103 Bible." As stated by the CAFC:<sup>5</sup>

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<sup>3</sup>Quoting from W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-313 (Fed. Cir. 1983).

<sup>4</sup>The American Bar Association's Section of Litigation's Court of Appeals for the Federal Circuit NEWSLETTER, Vol. III/No. 6, January 1987 - June 1987, at page 214.

<sup>5</sup>Hodosh v. Block Drug Co., 786 F.2d 1136, 229 USPQ 182, 187, footnote 5 (Fed. Cir. 1986).

"...the following tenets of patent law...must be adhered to when applying Section 103:

(1) the claimed invention must be considered as a whole<sup>6</sup> (although the difference between claimed invention and prior art may seem slight, it may also have been the key to advancement of the art);

(2) the references must be considered as a whole and suggest the desirability and thus the obviousness of making the combination;<sup>7</sup>

(3) the references must be viewed without the benefit of hindsight vision afforded by the claimed invention;<sup>8</sup>

(4) "ought to be tried" is not the standard with which obviousness is determined;<sup>9</sup>

Under these tenets the claimed invention is not only novel but also "unobvious".

For reasons discussed above, it is averred that the system of the present invention provides a less complicated, much more cost effective, more robust means of transmitting data from the vending machine to the service vehicle than Beard et al, or any of the other known prior art.

Further, it is submitted that the claimed invention of the present application fulfills a long felt, but unresolved need in the vending machine industry to provide an uncomplicated, relatively inexpensive, and relatively easy to install and maintain system of communicating data from the vending machine to the service vehicle.

<sup>6</sup>Citing the following authority: 35 USC 103; and e.g. Jones v. Hardy, 727 F.2d 1524, 1529, 220 USPQ 1021, 1024 (Fed. Cir. 1984).

<sup>7</sup>Citing e.g., Lindermann Maschinenfabrik GmbH v. American Hoist and Derrick Co., 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984).

<sup>8</sup>Citing e.g., W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983).

<sup>9</sup>Citing Jones, supra, 727 F.2d at 1530, 220 USPQ at 1026.

Nothing known in the past or currently on the market is believed to meet or surpass the performance of the system of the present invention for the price. It is noted that the present invention has been commercialized for over one year, under the "Buzzbox" trademark, and it has received industry wide recognition and commercial success, and has been successfully implemented in a variety of environmental conditions and in various configurations.

Thus, on reconsideration, it is respectfully submitted that the present claims should be allowed as being patentable under 35 U.S.C. 103.

If additional issues remain, and the Examiner is of the opinion that same could be resolved by telephone amendment, the undersigned respectfully requests same at (985) 845-0000.

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Respectfully submitted,

  
Joseph T. Regard (PTO Reg 34, 907)  
Joseph T. Regard, Ltd (APLC)  
Post Office Drawer 429  
Madisonville, LA 70447-0429  
Tel:(985) 845-0000  
Fax:(985) 845-7090  
Email: jregard@regard.net

CERTIFICATE OF FAXING

I HEREBY CERTIFY that the present document was faxed to the Commissioner for Trademarks, Technology Center 3600 at 703 305-7687, this 22 day of OCTOBER, 2003.

  
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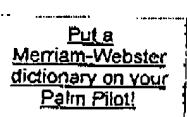
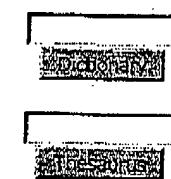
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## Dictionary

One entry found for **transceiver**.

Main Entry: **trans ceiv er**

Pronunciation: **tran(t)sē-vər**

Function: **noun**

Etymology: **transmitter + receiver**

Date: 1934

: a radio transmitter-receiver that uses many of the same components for both transmission and reception

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ɒ as o in mop

əʊ as ou in out

eɪ as e in bet

ɛɪ as ae in easy

ɪg as g in go

ʌɪ as i in hit

ɔɪ as i in ice

ʊɪ as j in job

ɪŋg] as ng in sing

ɔɪ as o in go

əʊ as aw in law

əʊɪ as oy in boy

ɪθɪ as th in thin

ɪθɪ as th in the

ʊɪ as oo in loot

ʊɪ as oo in foot

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ɪzɪ as si in vision